

MDT will monitor and provide general oversight of locally sponsored projects.

Federal statute allows state transportation agencies to delegate authority to implement federal-aid projects to qualified local government and their consultants, through a certification program. Local agencies that successfully achieve certification are required to adhere to the same regulations, policies, and procedures that apply to all MDT federal-aid programs. FHWA will continue to hold MDT responsible for ensuring that all federal-aid program requirements are met. The MDT passes this responsibility on to certified Local agencies.

General guidelines for certification acceptance are contained in this manual. Certification acceptance is limited to Billings, Great Falls and Missoula. A list of eligible local governments is contained in Appendix 5.182. A Project Proposal Application has been developed which provides general program information, requirements and simplifies the application process (see Chapter 6).

Once the funds are obligated to a project implemented through this manual the MDT allows an additional three years to expend those funds before a funding lapse will occur. Arrangements can, in limited circumstances, be made to extend the expenditure lapse date up to 12 months.

Appendix 5.183 shows the major project development and construction activities associated with implementing federal-aid projects. This flow chart can be used to assist Local agencies with financial management. The flow chart is used to inform the general public of a project's anticipated development schedule. Local agencies are encouraged to use this flow chart when developing a specific project's development schedule.

5.2 Local Government Responsibility

Recipients of FHWA funds are responsible for the following:

- Preparing their projects in a timely and satisfactory manner;
- Carrying out their projects substantially as they are described in the federally approved programming documents;
- Ensuring that only eligible activities are undertaken with federal-aid funds;
- Maintaining a financial management system that provides accurate information about project expenditures and assures financial accountability and control;
- Promoting equal opportunity in the implementation of project activity;
- Complying with the National Environmental Policy Act (NEPA); and
- Complying with all applicable laws and regulations, especially EEO and Labor Compliance

This chapter of the Guide summarizes the key considerations and important administrative steps, which the Local Elected Officials and staff should keep in mind as they implement their program and specific projects:

- Preparing the Projects Specific Agreements between MDT and the local agency;
- Establishing a Management Plan for project administration, Appendix 5.184
- Preparing a Project Development Schedule;
- Establishing project files; and
- Incurring project costs.

5.3 Applicable Requirements

.31 Federal (select references)

- The Transportation Equity Act for the 21st Century (TEA-21)(23 USC 133) provides the statutory basis for the Federal Highway Administration (FHWA) nationwide transportation program. The FHWA has overall administrative responsibility for the distribution and use of funds that are allocated to the State.
- Title 23 of the Code of Federal Regulation (CFR), “Highways.” These regulations adopted by the FHWA provide the basis for states to receive entitlements. While these implementing regulations are primarily intended to define state administrative responsibilities, they also identify many of the management and compliance issues each state must monitor at the state and local level.

These regulations make each state accountable for conducting such reviews of the units of general local government, as may be necessary or appropriate, to determine whether they have satisfied the applicable performance criteria which incorporate, among other things, the requirements of this Title and other applicable laws.

.32 State (selected references)

- The Certification Acceptance Qualification Agreement establishes the basic requirements governing certification acceptance and the various conditions associated with certification.
- The Project Application form establishes the basic requirements governing an application for federal-aid funds and describes the various conditions associated with projects selected or funding.
- The LAG Manual describes policies, procedures and recommendations governing the administration and management of this program as well as the development and construction of a federal-aid project by Local agencies.
- Rules of Conduct for Public Officials and Employees, (Section 2-2-104 and 2-2-125, MCA). These sections of Montana law set out a code of ethics for state and local officials and their employees.

5.4 Project Start-up

.41 Project Approval Letter

The approval of a project application informs the local agency that MDT agrees that the proposed project substantially meets the eligibility criteria and the local agency may begin the development of the project in accordance with program requirements.

As the proposed project develops, MDT recognizes modifications to the work; program budget and design may be necessary. The lines of communication should remain open between the local agency and MDT to make these modifications, which will allow for successful project completion.

.42 Incurring Start-Up Costs

The letter providing approval of a project does not, by itself, authorize the local agency to begin incurring costs. At this point in the project start-up process, projects selected for funding do not have authorization to encumber or expend any federal or local agency matching funds. Federal funds cannot be used for program administrative costs, such as expenditures associated with project application preparation or previous engineering or studies or plans.

.43 Environmental Exemption for Preliminary Engineering Activities

The Preliminary Engineering (PE) phase of project development includes the conduct of Environmental Studies. The Local agencies must develop and complete an “Environmental Review Record” covering proposed project activities (property acquisition, utility relocation, and construction) before MDT can authorize the local agency to proceed with any non-PE related activities. The local agency may not expend or encumber federal-aid or, local matching funds for any phase except those actions, authorized by MDT, that are associated with the PE phase.

MDT will issue by letter a specific authorization to the local agency when acceptable PE activities can begin. The following activities are environmentally exempt and are unlikely to cause any environmental impact.

- Advertising for and evaluation of consultants to include any associated contract negotiations.
- Project design related activities.
- Environmental review activities, including publication of notices, preparation of the Environmental Review Record, and submittal of an Environmental Finding to MDT.

If the environmental status of a particular activity is in doubt, the local agency should contact the MDT for guidance. The Environmental Review process for federal-aid fund recipients is discussed in Chapter 9, Environmental Processes.

5.5 Reimbursement for Eligible Activities

Federal-aid funds will not actually become available until: PSAs are fully executed, MDT issues a letter of authorization, and all contract conditions have been complied with. Initial eligible expenses must be paid out of local agency funds until federal/state reimbursement occurs. It takes approximately 30 days to process requests for reimbursement. Reimbursement payments will be made only to the local agency.

In the event PSAs are not executed for a specific project that project is considered not to be in compliance with the terms and conditions of the Certification Acceptance, therefore, a project budget does not exist. If funds are obligated or costs are incurred without proper authorization those costs incurred will be the responsibility of the local agency. For this reason, MDT recommends that new participants not encumber funds or incur costs until they have been briefed on the requirements and responsibilities they assume in administering a federal-aid program and managing a federal-aid project.

Under no circumstance may the local agency expend funds for actual project construction until the environmental review has been completed and MDT issues a letter authorizing the local agency to begin the construction contract letting or materials procurement process.

5.6 Code of Ethics

In 2-2-101 MCA, the Montana Legislature established a Code of Ethics for all officers and employees of state and Local agencies and sets state policy on conflicts of interest for state and local public officials. See Conflict of Interest requirements for this local agency Federal-Aid Program, Appendix 5.186.

5.7 Conflicts of Interest

FHWA conflict of interest regulations contained in 23 CFR 1.33 apply to all situations involving the procurement of property and services by local governments. Under these regulations:

No official or employee of a state or any other government instrumentality who is authorized in his official capacity to negotiate, make, accept or approve, or take part in negotiating, making, accepting or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract.

No engineer, attorney, appraiser, inspector or other person performing services for a state or governmental instrumentality in connection with a Project shall have, directly or indirectly, a financial or other personal interest, other than his employment or retention by a state or other governmental instrumentality, in any contract or subcontract in connection with such project.

No officer or employee of such person retained by a state or other governmental instrumentality shall have, directly or indirectly, any financial or other personal interest in any real property acquired for a project unless such interest is openly disclosed upon the public records of the State highway department and of such other governmental instrumentality, and such officer, employee or person has not participated in such acquisition for and in behalf of the State. It shall be the responsibility of the State to enforce the requirements of this section.

Note: under this federal-aid program the State in turn holds the local agency responsible for enforcement of the requirements of the section above.

Any person who fits this definition is essentially disqualified from receiving benefits. This restriction extends to family members and persons with whom the employee has business ties, during the employee's tenure and for one year thereafter. MDT has authority to grant an exception to these conflict of interest regulations, with FHWA approval, if it determines that such an exception will enhance the effectiveness of the project and is consistent with the objects of the program. Requests for such exceptions must be made in writing to MDT.

Montana's Code of Ethics for public officials and employees includes similar conflict of interest regulations that also apply to procurement activities for any local project. These state conflict of interest requirements are even more restrictive than the federal requirements. State law prohibits any municipal or county employee from entering into a contract with his or her employer, 2-2-201 and 7-3-4367, MCA. This prohibition also extends to relatives of certain officials. Under amendments incorporated in the law by the 1993 Legislature, the appropriate governing body may waive this prohibition, after following public notice procedures similar to those allowed for waive under these regulations.

One question regarding "conflict of interest" is whether the same firm may be selected to provide either preliminary engineering or construction engineering services and program or project administrative services.

According to MDT policy, federal aid funds cannot participate in the cost of program or project administration services. FHWA regulations require a fund recipient's financial management system provide for effective control and accountability for all funds. The regulations prohibit arrangements where a firm would, in effect, be reviewing their own work.

MDT acknowledges that some Local agencies may not have staff available to manage this federal-aid program or project. In the event a third party program/project administrator is hired, the cost of such services is not eligible for participation.

Under no circumstance would it be appropriate to have an architectural/engineering consultant that is, or intends to, perform other work under the program, directly involved in providing assistance in the financial management of the program or a specific project.

5.8 Attending Workshops

MDT periodically conducts workshops for Local agencies and consultants. Attendance at these workshops is strongly recommended to keep abreast of changing requirement. The workshop sessions are designed for elected local agency officials, Local Program Administrators and Local Project Managers who have program/ project responsibility. The varied federal and state requirements can make administering a project confusing and difficult. These workshops are designed to help make the task as easy as possible.

5.9 Project Management Plan

MDT requires the local agency to have the capacity to undertake and satisfactorily complete projects in accordance with the Certification Acceptance Agreement. Once a project has been approved, MDT recommends the preparation of a project management plan that assigns roles and responsibilities to specific individuals for the day-to-day administration and management of the project. While reading through this guide, keep in mind that someone will have to be responsible for assuring compliance with each of the requirements described.

Each local agency should prepare a project management plan that specifically demonstrates how and by whom the project will be managed. A carefully structured management plan appropriately supervised will allow local officials to monitor project implementation more effectively. More specific information regarding the suggested content of the plan is contained in the Project Management Plan, Appendix 5.184.

If the decision is made to retain contracted services to assist with the management of your program or project, it is important that a local agency official or employee works closely with contracted individuals to gain a better understanding of the issues involved. No program administration activities and only some project management activities are eligible for federal-aid fund participation. If you have any questions regarding this subject contact the MDT for a more detailed discussion.

As decisions are made on how the project will be managed, understand that administration of a project does not usually require the full time attention of an employee or contracted service provider from the beginning of a project to its completion. It is not a prerequisite that local staff, or even a private consultant, have previous federal-aid program experience in order to be effective. The key concern for local agency officials is that the person who is assigned or contracted to serve as LPA, be a conscientious and effective manager. The individual needs to be able to devote an appropriate amount of time to ascertain that necessary tasks are properly completed.

Once elected, local agency officials decide on a general administrative approach to the program and project(s). They should meet with key staff (such as those responsible for project financial accounting), to discuss their individual roles and responsibilities. The meeting is an opportunity to discuss management plan details, operating procedures, and reporting requirements.

The process of finalizing the management plan will help identify any gaps in the assignment of duties that need to be addressed before beginning to implement the local project. Each person involved in the plan should have a copy of the task assignments and the project development schedule. In the event of staff turnovers, the plan will help familiarize new staff with the responsibilities and operating procedures required in project administration. The management plan should also be retained in your Project Management file.

5.10 Project Development Schedule

An important consideration in project management is the creation of a Project Development Schedule.

.101 Project Start-Up Requirements

Each applicant:

- Must comply with all applicable state and federal requirements for project start-up;
- Must execute MDT/Local agency Project Specific Agreement (PSAs);
- Must fulfill other appropriate agreement terms established by MDT.

.102 Commitment of Non-FHWA Federal-Aid Financial Resources

Local agency projects which will require private, local, or state resources, as well as federal-aid funds, to implement, should have completed all necessary arrangements to ensure availability of those resources to guarantee timely project completion. The local agency may also have to consider any limitations on the use of those funds, as the overall project budget is prepared. Some programs allow their funds to be used for only certain purposes. These constraints should be kept in mind when deciding which funding source will finance each component of the project.

.103 Project Completion

The PSA period is normally 36 months from the date the agreement is fully executed. MDT reserves the right to withdraw project approval 36 months after the date of PSA execution. If local agency officials anticipate any problem in complying with these requirements, they should notify MDT as soon as possible.

The final schedule, which should be incorporated into the management plan, should use monthly milestones for each task. The schedule should be posted by the LPA for periodic reference to compare actual work completed with the original planned schedule.

.104 Project Development Flow Chart

A Project Development Flow Chart includes a breakdown of the process, by project phase.

Activities with standard duration further break down each phase. This sample document is only to provide general guidance, Appendix 5.183.

5.11 Preparing the Project Specific Agreements (PSAs)

As part of the project start-up process, MDT and the local agency will work together to prepare the PSAs. The PSAs are the legal documents that govern the administration, development and maintenance of the project and **must** include the following items:

- A project budget (by account) detailing funding splits by federal-aid funds, state funds, local agency match, and additional contributions involved in the project
- The project scope
- Project location
- Proposed method of development
- The general terms and conditions associated with the program and project

The negotiation process is limited to the project budget, scope of work, method of development, identification of any special conditions, and the definition of key elements of the project. Each contract consists of:

- Non-negotiable provisions common to all PSAs are generally referred as a “boilerplate”. Those provisions refer to contract modification and amendment; method of payment; compliance with applicable laws and regulations.
- Negotiable provisions specific to the agreement between the MDT and the local agency. These provisions refer to method of development and construction; the scope of work; the project budget; and any other special conditions.

Each provision is legally enforceable and spells out the respective obligations of MDT and the local agency.

The local agency will prepare draft agreements for review by MDT officials. The drafts will reflect the key elements of the project as described in the original Project Application. Local agency officials should pay particular attention to the sections addressing scope of work, methods, conditions, and budget. It is recommended the local agency’s attorney review the draft form of the PSAs to ensure each is consistent with the local agency’s legal authority and interests. Any concerns should be communicated to the MDT. Once agreement is reached on the content, the MDT will prepare final drafts for signature by local agency elected official(s) and the MDT.

A federal-aid program will not be requested from FHWA until the PSAs are fully executed.

If a project can be completed for less than the dollar amount, in the PSA, the balance will be returned to the Local agencies unobligated fund. For example, if actual construction award amount were less than the estimate included in the PSA, the FHWA construction account value would be established at the contract award amount.

In certain circumstances, additional funds may be used for an eligible activity, which further enhances the project. Prior to the MDT allowing the additional activity, the local agency must demonstrate the activity will clearly enhance the overall impact of the original project; provide adequate benefits; be completed in a timely manner; and be able to be completed with available funds. In addition the local agency must demonstrate satisfactory progress toward completion of the original project.

Amending the Project Specific Agreements (PSAs)

It is difficult to prepare a scope of work, budget, and an implementation schedule that anticipates all eventualities throughout the term of a project. Therefore, MDT will consider requests for PSA revision and/or modification. However, the Local agencies must request approval of revisions and/or modifications to the project in advance. Revisions and modifications that require approval include new termini, alteration of the existing activities or budget, or extending the schedule for project development and construction. Before MDT makes a determination to allow the modification, the local agency must provide a written request with justification that clearly demonstrates the change is appropriate and will enhance the overall impact of the original project.

MDT may require a public hearing, with reasonable public notification, by the local agency if the proposed amendment is determined to be a substantial change in project activities.

Substantial changes in project activities or the geographic area of the project may also obligate the local agency to publish legal notices and to conduct additional environmental analyses in order to comply with federal requirements.

5.12 Program & Project Files

This section provides a general outline of a suggested filing system for project records that meet MDT monitoring and record keeping requirements. By establishing and continuously updating the project files, the local agency will gather and organize all the information needed to assure effective project management, as well as documenting compliance with program requirements. Original and complete documentation for all files must be retained in the official offices of the local agency. These files need to be available during normal business hours to any person(s) authorized to review them, including state and federal representatives. Staff or consultants may also retain copies of key documents at a separate location.

Most projects will not require every file described below. The appropriate files for any project will vary depending on the type of project and activities involved.

.121 Program Administration File

This file contains the annual federal-aid sub-allocation notices, obligated, and expended fund balances. The LPA designation letter, lists of Project managers (PMs), and other program related correspondence, notes, etc. should also be kept in this file.

.122 Project Application/Project Specific Agreements File

This file contains a copy of the local agency's original Project Application, all supporting documentation including publication notices, records of the required public hearing, correspondence and any other documentation used to prepare the application. Executed copies of the PSAs between the

local agency and MDT should be retained in this file. Any related correspondence, telephone notes, or subsequent amendments to the PSA must be retained in this file.

.123 Project Management & General Correspondence File

This file contains the project management plan, implementation schedule, notes, memorandums, or correspondence regarding project management that are not more appropriate to the specific topic files.

Copies of special directives from MDT pertaining to issues of policy or procedure affecting administration of the project belong here. Also include copies of local policies or procedures pertinent to the project belong here. Copies of correspondence, telephone notes, or other documentation related to inquiries concerning potential conflicts of interest or requests to MDT for determination of a conflict of interest reside here. Copies of legal opinions or recommendations from the local agency attorney or from MDT that are relevant to the project belong here. Records of other contracts regarding legal issues should also be kept in the file.

.124 Project Consultant/Contracted Services File

This file should contain records of the procedures followed in the solicitation for services, a copy of the agreement between the local agency and the Consultant, and contract administration documentation. Each contract should have its own subfolder as per standard MDT procedures.

.125 Project Environmental Review File

This file contains all data and documentation prepared in response to the environmental review requirements including all notices, public comments, the preliminary environmental review or environmental assessment, and the final environmental document distributed by MDT.

.126 Project Financial Management File

This file contains a complete record of all financial transactions concerning the project. The financial management file maintained by the LPA usually consists of several documents including a copy of all requests for reimbursement, project progress reports and other supporting information submitted to MDT with the reimbursement request. This file needs to include up-to-date financial information regarding the status of federal, state, and other funds involved in the project. The official and detailed financial records, including all original source documentation, original invoices or claims must be maintained by the local agency's financial office. It is important the LPA and the local agency's financial officers work together to monitor project finances.

.127 Project Civil Rights File

This file contains all documentation related to local agency compliance with state and federal civil rights requirements. Items like Disadvantaged Business Enterprise (DBE) Requirements, spot check interview forms, DBE Monitoring forms, and contractor's EEO policy are examples of documents that should be kept in this file.

.128 Project Labor Standards File

This file contains all documentation related to compliance with applicable state and federal labor requirements. Prevailing wage rates forms are an example of documents to keep in this file.

.129 Project Acquisition/Relocation File

This file contains a copy of records on acquisition activities and established policies and procedures used for relocating any displaced households and/or businesses. Keep a separate sub-file on each parcel, which includes copies of all notices, case information, and evidence of successful relocations with appropriate compensation or other assistance.

.130 Project Design File

This file contains scope of work reports, plan in hand reports and design reports. It should also include investigation and special study reports, surveys, plans, specifications, detailed drawings, supporting calculations, design related meeting minutes and correspondence. Detailed cost estimate reports and quantity summaries are kept in this file. Materials certification/testing requirements should be identified, recorded and retained in this file.

.131 Project Construction File

This file contains a separate sub-file for each project construction contract to include the request for bids, bid document, contract document, certified copies of legal advertisements, minutes of the pre-construction conference, permits, inspection reports and all other related materials. All construction inspection, material certifications and test results should be retained in the appropriate construction file.

.132 Project Audit File

This file contains copies of any audit published for the local agency that covers the time period between award of the Urban funds and project closeout by MDT.

.133 Project Closeout File

This file contains a copy of the local agency's preliminary and final closeout reports and any correspondence to or from MDT regarding closeout.

5.14 Public Involvement

The Federal Highways Administration (FHWA) and the Montana Department of Transportation (MDT) require citizen participation in the federal-aid program. As an applicant for federal-aid funds, your agency must hold meetings to solicit citizen comments on community needs. This chapter describes the requirements and obligations a federal-aid recipient has for involving the public during implementation of a federal-aid project.

.141 Applicable Requirements

Federal

Congress passed the Transportation Equity Act (TEA-21) of 1998. The Act added new citizen participation requirements in addition to the existing requirements. The amendments require that federal-aid recipients must:

- Provide for and encourage citizen participation;
- Provide citizens with reasonable and timely access to local meetings, information, and records relating to the local government's (local agency) proposed use of funds;
- Provide for technical assistance to groups that request such assistance in developing proposals with the level and type of assistance to be determined by the local agency;
- Provide for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the program development. Hearings shall be held following adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;
- Provide for timely written answers to written complaints and grievances; and
- Provide for the need of non-English speaking residents, where a significant number of non-English speaking residents can reasonably be expected to participate.

State

- Each municipal governing body, shall develop procedures for permitting and encouraging the public to participate in decisions that are of significant interest to the public (7-1-4142 MCA).
- In any meeting required to be open to the public, the governing body shall adopt rules for conducting the meeting, affording citizens a reasonable opportunity to participate prior to the final decision (7-1-4143 MCA).
- All records, with limited exceptions and other written materials in the possession of a municipality shall be available for inspection and reproduction by any person during normal office hours.

.142 Local Government Responsibilities Involving the Public

Keeping the public informed about the federal-aid program and project is something all Local agencies must do on a continuing basis. Publicity about your federal-aid project can be used to generate enthusiasm about the project and the community's long-term goals.

The following are suggestions to keeping the public informed.

Community Awareness

One approach is to have the project engineer or manager provide progress reports to the City Council, Council or County Commission on a monthly basis. Copies of the progress report can then be provided to the local newspaper, radio and/ or television station.

A second option is to have the project manager or members of the governing body make a brief presentation to local civic groups or service organizations. One type of presentation would be to prepare a slide show, which illustrates the impact of a local federal-aid project. The slide show could illustrate the before and after physical appearance of a building following rehabilitation.

Media Coverage

Media coverage can provide positive public relations communication for the federal-aid projects that Local agencies have worked diligently to acquire.

Many of these federal-aid projects provide visibility for the community, which can have wide-ranging economic and social impact.

It is desirable to have the local newspaper present at major meetings or events involving dissemination of information for the federal-aid project.

The project manager should provide periodic briefings to the newspaper regarding the status of any projects. A local talk show or call in program can be effective means for local officials to spread the word about projects. It is frequently desirable for the local agency to provide the interviewer with a list of questions or topics of discussion prior to the interview.

Make every reasonable effort to accommodate the media staff. Determine in advance, deadlines and/or schedules for newspapers, radio or television broadcasts. This will eliminate potential missed meetings or lack of coverage at briefings.

For any special event or meeting, prepare clear, concise background information for reporters. It is always advisable to provide typed copy that contains all the pertinent data on individuals in attendance and/or project background.

Check with the newspaper to determine what type of photographs (black and white or color) they will use. Some newspapers prefer to take their own pictures. Newspapers prefer shots, which

include an activity or objects that convey a message rather than a picture of smiling individuals. Accompanying articles should focus on the benefits of the project to the community as a whole.

Although local officials involved in administering federal-aid projects use alphabet soup of acronyms; avoid this. Use straightforward, simple language. A general rule of thumb is that newspaper language should be readable by anyone with an 8th grade education.

Press Releases

Press releases should be used for special events or new developments regarding the project. When press releases become overused, they tend to be ignored.

The composition of a press release should be presented in a concise, clear four-sentence paragraph. This paragraph should provide the most significant of the 5 W's (who, what, when, where or why). Begin the release with an eye-catching quote or statement about the event being publicized. Use verbs in the present tense and in the active voice. Avoid terms such as "today" or "this evening". Publication dates may not lend themselves to such terminology. Editing of newspaper articles tends to occur from the end of the article back to the beginning. Therefore, the least significant information should be near the end of the article. The press release should be limited to one page, be typed and double-spaced. The name, title and phone number of an individual, who can be contacted for clarification, added information or further quotes should always be included.

Since the media rarely uses a press release as originally written, the contact information should always be provided for the media's use as well as inclusion in the release to the public.

Special Events

Special events, such as a ground breaking ceremony for a new bike path project, a ribbon cutting for a new walkway, or special recognition for the preservation of a historic railroad depot, can be used to let people know what is happening and to generate enthusiasm.

During any special event, the Mayor or County Commissioners can invite the Governor, State legislators, and/or members of Montana's congressional delegation to cut a ribbon or tour the project. In particular, letting our U.S. Senators and Representatives know what Montana communities are accomplishing with federal-aid funds is important to them. One of Montana's senators complained that he rarely ever heard about a good achievement with federal-aid funds; instead he only received complaints when a citizen was dissatisfied with some aspect of a local federal-aid project.

In making the tough decisions they face regarding competing needs in the federal budget, our Congressional delegation needs to know which programs are providing real benefits for their constituents. Letting them know that federal-aid funds can make a difference is important to all of Montana's communities.

.143 Other Public Information Tools

Brochures

Brochures can be an excellent way to educate and inform people. Keep the material short and to the point. One advantage of brochures is that they can be targeted to specific households or neighborhoods by door-to-door distribution or mail. They could be mailed out with monthly water or sewer bills to let people know what the city proposes to do.

Newsletters

It may be possible to use other existing newsletters such as those published by local churches or the county extension agent to get the word out on the local federal-aid project. Some communities have

distributed periodic newsletters with water or sewer bills to keep citizens up to date on the progress of the local federal-aid project.

Posters

Posters have long been a common approach for publicizing local activities, special events, or public meetings. Posters should be neat, attractive, and not so large that they take up too much space on a bulletin board. Posters should be displayed for a week or two. If they are posted longer, they tend to be ignored.

Posters are inexpensive and have many options for placement such as town halls, banks, grocery stores, welfare offices, churches, senior centers, libraries, and laundromats--wherever the public might take time to read your message.

5.15 Resolving Complaints

Unfortunately, no discussion of public relations for a federal-aid project would be complete without mentioning the local agency's responsibility for dealing with complaints.

Though local officials do their best to improve their communities through their federal-aid project; human nature seems to guarantee that some citizens will probably be dissatisfied with some aspect of the project. In a public facility project, a taxpayer may feel the proposed project is poorly designed or too expensive.

As the federal law cited at the beginning of this chapter makes clear, local citizens have the right to offer their views at any point during the federal-aid projects development and implementation. Any comment, suggestion, criticism, or complaint made by a citizen should be taken seriously and deserves a prompt response.

As a rule, the more promptly local officials can investigate the basis of a complaint and offer a reasonable solution, the better. It is human nature for the citizen lodging the complaint to feel that he or she is being ignored if the local agency does not respond with at least a telephone call immediately to investigate the situation. The longer the time before contact is made, the greater will be the frustration or anger. The usual pattern, if a citizen does not receive a quick and adequate response, is the next complaint is lodged with the MDT, Governor, FHWA, or a member of Montana's congressional delegation. A complaint at this level can create a lasting negative impression regarding the worth or effectiveness of the federal-aid program or the soundness of the state's or the local government's administration of the program.

The normal procedure if a complaint is filed with the local agency Mayor or Council, MDT, Governor, FHWA, or a member of the congressional delegation, is for the complaint to be referred to the appropriate local officials for response. MDT will not dictate the form or manner of the response to local officials. The Department's staff is available to advise the community regarding any federal or state requirement that may be in question.

In all cases, the final resolution of the complaint is the authority and responsibility of the local agency. When the local agency has reached a decision regarding how the complaint is to be resolved, the MDT will communicate the local government's decision to the agency or office that originally referred it to the MDT.

Records of all citizens comments, whether in the form of letters or summarized telephones or oral comments, and the local agency's letter of reply should be placed in the appropriate project file. Hopefully, the file will be filled with compliments, rather than complaints.

5.16 Single Audit Act

Circular No. A-133 Revised June 24, 1997 Subpart B Audits .200

(a) Audit required. Non-Federal entities that expend \$300,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of this part. Guidance on determining Federal awards expended is provided in .205.

5.17 Summary

In summary, this chapter sets forth the following important steps the local agency needs to undertake to begin and continue a project.

1. Receive the required MDT authorization to incur costs for activities that are environmentally exempt.
2. Prepare the recommended Management Plan, Appendix 5.184 and Project Development schedule for project administration and management purposes.
 - a. Determine whether public employees or private contractors will manage the various project activities under local agency guidance or direction.
 - b. Comply with federal and state law regarding employment practices and hiring and/or procurement procedures.
 - c. Assign responsibilities to individuals for all aspects of project management.
 - d. Prepare final schedule prior to project implementation.
3. Develop the required Project Specific Agreements with MDT.
 - a. Coordinate with MDT on preparation of the draft agreements
 - b. Arrange for review by the local agency attorneys.
 - c. Sign final agreements
4. Secure the firm commitment of any non-FHWA/MDT resources to be involved in the project.
5. Develop an effective public relations program.
6. Address and resolve citizen complaints.

5.18 Appendixes

5.181 Acronym & Glossary Terms

5.182 List of Eligible Local Governments

5.183 Project Development Flow Chart – Reference Only

5.184 Project Management Plan

5.185 Project Development Schedule

5.186 Conflict of Interest requirements for this local agency Federal-aid Program

Acronyms:

AASHTO — American Association of State Highway
and Transportation Officials

ACHP — Advisory Council on Historic Preservation

ADA — Americans with Disabilities Act

ADT — Average Daily Traffic

AE — Architect or Engineer

ANSI — American National Standards Institute

CA — Certification Acceptance

CAAA — Clean Air Act Amendments of 1990

Cat Ex (NEPA) — Categorical Exclusions

Cat Ex (MEPA) — Categorical Exemptions

CEQ — Federal Council on Environmental Quality

CFR — Code of Federal Regulations

CMAQ — Congestion Mitigation and Air Quality
Program

CTEP — Community Transportation Enhancement
Program

CUF — Commercially Useful Function (DBE)

DBE — Disadvantaged Business Enterprise

DEQ — Montana Department of Environmental
Quality

DLI — Montana State Department of Labor and
Industries

DNRC — Montana Department of Natural Resources
and Conservation

EA — Environmental Assessment; Economic Area

EEO — Equal Employment Opportunity

EO — Executive Order

EPA — Federal Environmental Protection Agency

ERR — Environmental Review Record

FAA — Federal Aviation Administration

FAR — Federal Audit Requirements

FHWA — Federal Highway Administration

FMV — Fair Market Value

FWPCA — Federal Water Pollution Control Act

IM — Interstate Maintenance

ISTEA — Intermodal Surface Transportation

Efficiency Act of 1991

ITE — Institute of Transportation Engineers

LPA — Local Program Administrator

LOCAL AGENCY — Local Government

MCA — Montana Codes Annotated; Montana
Contractors Association

MDT — Montana Department of Transportation

MEPA — Montana Environmental Policy Act

MPO — Metropolitan Planning Organization

MUTCD — Manual on Uniform Traffic Control Devices

MPWSS — Montana Public Works Standard
Specifications

NAAQS — National Ambient Air Quality Standards

NACHP — National Advisory Council for Historic
Preservation

NCHRP — National Cooperative Highway Research
Program

NEPA — National Environmental Policy Act

NH — National Highway

NHS — National Highway System

NOA — Notice of Award

NPDES — National Pollutant Discharge Elimination
System

NPS — National Park Service of the Federal
Department of the Interior

NTP — Notice to Proceed

OMB — Federal Office of Management and Budget

PE — Preliminary engineering; also Professional
Engineer

PM — Project Manager

PS&E — Plans, Specifications, and Estimates

PSA — Project Specific Agreement (between MDT
and the LOCAL AGENCY)

RFP — Request for Proposals

RFQ — Request for Quotations

ROW — Right-of-Way

SDWA — Safe Drinking Water Act

SHPO — State Historical Preservation

Office

SOQ — Statements of Qualification

STIP — Statewide Transportation Improvement
Program

STP — Surface Transportation Program

STPU — Surface Transportation Program Urban

TEA-21—Transportation Equality Act for the
21st Century

USC — United States Code

USDA — United States Department of Agriculture

USDOL — United States Department of Labor

USDOT — United States Department of Transportation

USFS — United States Forest Service

USFWS — United States Fish and Wildlife Service

VE — Value Engineering

Glossary of Terms:

Additional Contributions — LOCAL AGENCY funds that are not being used to meet the match requirements and are reflected on the initial program request and on subsequent modifications. Used when federal financial assistance will not be used or is not eligible to participate in certain specified work elements identified in the approved scope of work.

Administrative Settlement — A negotiated settlement of a right of way acquisition parcel in which the acquiring agency has administratively approved payment in excess of fair market value as shown on the agency's approved determination of value (DV).

Americans with Disabilities Act (ADA) — The Americans with Disabilities Act of 1990 which mandates sweeping changes in building codes, transportation, and hiring practices to prevent discrimination against persons with disabilities, not just in projects involving federal dollars, but all new public places, conveyances, and employers.

Approval Authority — The position title designated in the Certification Acceptance Qualification Agreement as responsible for approving a document or stage of a federal aid transportation project.

Categorical Exclusion (Cat Ex) — Actions that do not individually or cumulatively have a significant effect on the environment.

Certification Acceptance (CA) — The process of approving local agencies to administer their federal aid transportation projects.

Code of Federal Regulations (CFR) — The codified administrative regulations of the federal government.

Community Transportation Enhancement Program — One facet of the MDT's total enhancements program. This program passes on program and project development responsibility to the local government with limited MDT monitoring.

Completion Letter — A letter from the local agency Engineer notifying that the construction contract project is complete. A letter from the local agency notifying the MDT District Liaison that the project is complete subject to inspection, audit, and acceptance by the state. The letter is required on competitive bid contracts and local agency force account projects.

Construction Proposal Package — Project plans, specification and contract documents for bidding purposes. The Montana Public Works Standard Specifications uses the term Project Manual and Drawings.

Consultant — An individual, public or private organization or institution of higher learning having expertise in professional disciplines applicable to transportation programs.

Consultant Services — Services of architects, engineers or land surveyors to perform a specific study, project, or task.

Contracted Services — Services such as landscape design, historical cultural surveys, biological assessments, wetland delineation, property appraisals, etc.

Design Report — A formal documentation of design considerations and conclusions reached in the development of a project design. The design report is prepared to record the evaluations of the various disciplines, which result in final design recommendations. This report is then reviewed and, upon concurrence, results in approval of the project design.

Disadvantaged Business Enterprise (DBE) — A small business concern: (a) which is at least 51 percent owned by one or more socially or economically disadvantaged individuals, or, in the case of any publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Environmental Assessment (EA) — A document prepared for federally funded, permitted, or licensed projects, that are not categorical exclusions (CE) but do not appear to be of sufficient magnitude to require an EIS. The EA provides sufficient analysis and documentation to determine if a Finding of No Significant Impact (FONSI) can be adopted or if an EIS must be prepared.

Environmental Document — A term used for any document that identifies the social, economic, and environmental effects of a proposed action. A Categorical Exclusion letter, will also be accepted as an environmental document.

Environmental Impact Statement (EIS) — Environmental Impact Statement, a detailed written statement of project environmental effects required by state and/or federal law. This term refers to either a Draft or Final Environmental Impact Statement, or both, depending on context.

Equal Employment Opportunity (EEO) — Equal Employment Opportunity. A general term referring to all contract provisions relative to EEO.

Federal-aid Programming — Refers to the obligation of federal funds for a specific project. This is accomplished by submitting a formal request to the FHWA. The approved program, under this local agency federal-aid program, can consist of multiple phases or accounts (i.e. PE, ROW, IC, CN, CE, etc.)

Force-Account Work — Approved work performed by local (city, county) staff specifically related to an approved project. Eligible items may include labor, materials or equipment costs prior to construction activities.

Functional Classification — The roadway classifications referred to in this guide are the functional classifications shown on the official functional class maps prepared by the Data and Statistics Bureau of the MDT Transportation Planning Division. Examples: principal arterial, minor arterial, collector arterial.

Lead Agency — A federal, state, or local agency taking primary responsibility for preparing an environmental - document.

Liquidated Damages — Amounts of money to be assessed against a contractor for late completion and failure to comply with labor standards (see 18-2-432 MCA). These amounts must be related to the actual damages suffered by the owner because of the late completion or due to the contractors documented failure to comply with state labor requirements.

Local Agency Agreement — An agreement to allocate federal funds to a transportation project, negotiated between a local agency and MDT.

Local Match — That portion of a project's cost paid for with local agency funds.

Local Program Administrator (LPA) — A local agency official empowered by position or delegated the authority to administer transportation projects.

Nonparticipating — Activities that are determined to be ineligible for federal participation and must be paid with non-federal funds. Non-participating funds must be reflected in the program modification memo.

Nonparticipating Items — Items of project work that are not a part of the federal aid funding, or not eligible for federal-aid funding.

Phase — Encompasses those specific activities that are grouped to aid in accounting for project expenditures.

Program — Refers to the obligation of federal funds for a specific project. This is accomplished by submitting a formal request to the FHWA.

Progress Payment — A payment by a public agency to a consultant or construction contractor for work completed on a federal aid transportation project during a defined time period.

Project — All those activities that are associated with the development of a specific CTEP project, as submitted by a local government, and approved by the MDT.

Project Engineer — The person designated by a local agency to oversee development of a project.

Project Specific Agreements — Agreements to allocate federal funds to a transportation project and to acknowledge maintenance responsibilities. The PSA is negotiated between an local agency and MDT (aka the CTEP Agreements).

Reimbursement Request — A request from an local agency to MDT for state/federal reimbursement for work completed on a federal aid transportation project during a defined time period.

Section 4(F) Evaluation — A document presenting the consideration, consultations, mitigative measures, and alternatives studied for the use of properties identified in Section 4(F) of the U.S. Department of Transportation Act as amended (49 USC 1653H).

Section 4(F) Lands — Generally, public parks, recreation areas, wildlife refuges, and historic sites.

Special Provisions — A portion of the construction contract specifications separate from the General Provisions and covering conditions unique to a specific project.

Standard Specifications — Sets of typical construction contract specifications. For this program the accepted state standard specifications are "Standard Specifications for Road and Bridge Construction (MDTSS) and the Montana Public Works Standard Specifications (MPWSS).

Wetlands — Lands covered by shallow water or lands where the water table is at or near the surface; includes marshes, swamps, bogs, natural ponds, wet meadows and river overflow.

Appendix 5.182 List of Eligible Local Governments

City of Billings
Yellowstone County
City of Great Falls
Cascade County
City of Missoula
Missoula County

Management Plan-General

Preparing of a project management plan does not have to be a difficult task. Each project should have a management plan that describes how it will be managed. Preparation of the plan is a matter of how and who will manage the project. The plan should cover the following three basic areas.

1. Overall Program Administrative Structure (this will be the same for all projects)

This element will describe how the local agency will integrate project management with its existing organizational structure. The most common alternatives for management (as discussed in the text of this chapter) are either administration by local staff or through contracted services. This portion of the plan should include a description of:

- ◆ The role of the mayor and council (or County Commission Chairperson and County Commission, or) in oversight of project administration and the expenditure of project funds and how this is to be coordinated by the Local Program Administrator (LPA);
- ◆ The role of the local agency's attorney in preparing and/or reviewing any proposed contracts required for the project;
- ◆ The key persons who will be involved in project management and administration including the chief elected official, the local agency's financial officer, the LPA, the LPA, the local agency's attorney, and any other officials or staff who will have a direct role in administering the project. The list should include names, titles, telephone numbers, and a brief description of their role in the project's administration.

2. Specific Project Management (this section may change for each individual project)

This element should describe the procedures to be followed and the persons who will be responsible for specific project management activities including ensuring documentation of the local agency's compliance with all applicable requirements such as the environmental review, consultant/construction contract administration, preparation of project progress and closeout reports, etc. For example:

- ◆ If professional architect/engineering (AE) services will be required, a description of the role and responsibilities of elected officials and local staff in soliciting, evaluating, selecting, contract negotiation, contract award, and consultant contract administration; or
- ◆ For construction program management, a description of the role and responsibilities of elected officials, local staff (and/or contracted service provider) for compliance with general construction requirements; preparation of plans, specifications and estimate; contract documents; contract letting; conduct of pre-construction conferences; conducting on-site interviews with construction personnel for Labor and EEO compliance, quantity measurement, contractor payments, project inspections, and testing.

3. Financial Management

This portion of the plan should describe the procedures to be used and the officials or staff that will be responsible for ensuring proper expenditure of and internal control over the use of funds. This description should:

- ◆ address the procedures to be followed for reviewing and approving expenditures, preparing and submitting reimbursement requests to MDT, processing payments, etc.;
- ◆ identify the persons who will be responsible for maintenance of the required financial records or processing of project funds;
- ◆ explain any arrangements with financial institutions or contractors which involve management of project funds;
- ◆ describe the accounting and management system to be used, such as the Budgetary, Accounting and Reporting System (BARS) or the Town Accounting System (TAS); and
- ◆ the role of the governing body in approving expenditures for the project.

The project implementation schedule should be included with the management plan demonstrating how the tasks described in the plan will be dealt with chronologically.

Sample Management Plan Format for a federal-aid transportation project administered and managed by Local Staff

I. Program Administrative Structure

The City of _____ is an incorporated city with a Mayor-Council form of government. The following persons will have lead responsibility for administration and management of the City's Transportation Enhancement project:

Mayor _____, as the City's chief elected official, will, as Local Program Administrator (LPA), have responsibility for all official contacts with the Montana Department of Transportation (MDT). The Mayor and City Council will have ultimate authority and responsibility for program administration and project management activities and the expenditure of funds. The LPA will ensure effective program management and develop Project Specific Agreements (PSAs) with MDT and assist the City with all requirements related to effective project start-up through completion. The approval of all contracts and reimbursement requests will be the responsibility of the City Council. (Telephone _____)

_____, Clerk-Treasurer, as the City's chief financial officer, will assist the LPA with fiscal management of program funds, and record keeping of all funds involved in the financing of this project. Approximately one-tenth of this position's time will be devoted to financial administration during the term of this program. (Telephone _____)

_____, Director of the City-County Planning Board, will be designated as Project Manager (PM) and will have overall responsibility for consultant and construction contract administration and for ensuring compliance with applicable federal and State requirements for this project. The PM will report to the LPA and will also serve as this project's designated Civil Rights Compliance Officer, Environmental Certifying Officer and Labor Standards Officer. Approximately one-fourth of this position's time will be devoted to project management activities during the term of the project. (Telephone _____)

_____, City Attorney, as the City's legal counsel, will review and advise the Mayor and Council regarding any proposed contractual agreements associated with the project and provide any other legal guidance as requested. (Telephone _____)

The selected project Architect/Engineer (AE) will report to the PM for City authorizations and approvals and be responsible for the preparation of the project plans, specifications and estimates, and construction oversight.

II. Specific Project Management

A. The Project Manager (PM) will be responsible for:

1. Establishing and maintaining complete and accurate project files and preparing all documentation and reports incidental to the management of the project.
2. Assisting the City with selection of the AE service provider, in conformance with MDT program procurement requirements.

3. Preparing the Environmental Review Record (ERR) to ensure full compliance with the National and Montana Environmental Policy Acts, completion of the statutory checklist, and any other applicable environmental requirements. The PM will also be responsible for preparing any legal notices required to be published for the ERR process and conducting any required public hearings or informational meetings.
4. Submission of the ERR to MDT for review and approval.
5. Review of all proposed project expenditures or requests for payment to ensure their propriety and proper allocation of expenditures to the project budget.
6. In cooperation with the Clerk-Treasurer, process contractor payment requests and reimbursement requests for MDT.
7. Monitor the construction contract letting process, to include advertising, plan holders list maintenance, addenda issuance, tabulation and evaluation of bids received for conformance with federal and state requirements. Approval of the AE prepared award recommendation for LPA and City Council approval, and MDT concurrence. The PM will review the construction contract provisions for program compliance and make recommendations to the LPA. The LPA will obtain City award authority contingent on MDT concurrence before a contract is awarded.
8. Attend the pre-construction conference and monthly construction progress meetings. These meetings will be conducted by the AE.
9. Monitor consultant and construction contractors for compliance with applicable federal and state requirements.
10. Serve as the project's designated labor compliance officer ensuring prime and subcontractor compliance with all labor standards requirements. Responsibilities will include the review of weekly certified payroll reports to ensure compliance with Davis-Bacon prevailing wage requirements; periodic visits to the construction site to ensure that required posters and wage rate determinations have been posted by prime and each subcontractor; and conduct on-site interviews with prime and subcontractor construction personnel to ensure contractor compliance.
11. Ensure compliance with applicable civil rights requirements by periodically visiting the construction site to ensure that required, EEO Policy Statement, complaint form, and EEO Officer appointment letter have been posted by prime and each subcontractor; conducting on-site interviews with construction personnel to ensure prime and subcontractor employees have attended monthly EEO meetings and know who the prime and subcontractor's EEO Officer are; and reviewing prime and each subcontractor's EEO meeting minutes.

12. Submit all required performance reports and closeout documents to the LPA for local approval.
 13. Act as the project spokes person at any public meetings, as deemed necessary by the LPA.
- B. The Architect/Engineer (AE) will be responsible for:
1. Design investigations, calculations and design report preparation.
 2. Preparation of the construction bid package in conformance with applicable federal-aid program requirements and conduct the construction contract letting process, to include ad preparation and advertising, project manual distribution and plan holders list maintenance, addenda issuance, tabulation and evaluation of bids received for conformance with state and federal requirements. Prepare award recommendation for local approval and MDT concurrence. Prepare the construction contract and request PM approval before issuance of the notice of award. The notice of award and other construction contract administration correspondence will be prepared for the PM's signature.
 3. Assisting the PM with the pre-construction conference. Prepare correspondence such as the notice to proceed, contract time notices, change orders, additional work orders, etc.
 4. Construction oversight and preparation of construction oversight documents; project diary, staking notes, daily inspection reports, quantity measurement, materials testing and acceptance, and responsible for obtaining contractor submittals.
 5. Review and preliminary approval of all contractor requests for payment and submitting the approved requests to the PM for further approval and payment.
 6. Schedule and conduct final construction review with PM and MDT Liaison.

III. Financial Management

- A. The Clerk-Treasurer's responsibilities will be as follows:
1. Disbursement of project funds, based on claims and supporting documents approved by the LPA.
 2. Entering all project transactions into the City's existing accounting system (BARS), and prepare checks/warrants for approved expenditures.
 3. With the assistance of the LPA, prepare a Request for Payment and Status of Funds Report (reimbursement request) to be submitted to MDT. All reimbursement requests will be signed by two of the three following persons: Mayor, Clerk-Treasurer, and Council President. No expenditures will be made without the approval of the Council at a regular meeting.

4. With the assistance of the LPA, prepare the final financial reports for project closeout.
-
- B. The LPA and Clerk-Treasurer will review all proposed expenditures of funds and will prepare reimbursement requests, which will be signed by the officials cited above. All disbursements will be handled in accordance with the City's established claim review procedures. Before submitting the claim to the Clerk-Treasurer, the LPA will attach a certification to each claim stating that the proposed expenditure is an eligible expense of the project and consistent with the PSA's scope of work and budget. The Council will review all claims before approving them.
 - C. Financial record keeping will be done in conformance with the recommendations of the Department of Commerce/Local Government Services Bureau. The original financial documents (claims with attached supporting material) will be retained in the City's offices.

Note: while the management plan is not required, the use of this tool is highly recommended to aid the local agency in ensuring effective and efficient program administration and project management.

SAMPLE**PROJECT SCHEDULE****A. START-UP**

1.	Attend MDT Workshop	LPA/PM	Apr 200X
2.	Prepare Management Plan	Local governing body/LPA	Apr 200X
3.	Establish Project Files	PM	Apr 200X
5.	Determine Audit Requirements	Financial Officer	May 200X
6.	Schedule Local Govt. Audit	Local governing body	May 200X
7.	Award AE contract after MDT review and approval-Authorize Preliminary Design	Local governing body	Aug 200X
8.	Complete ERR	PM	Oct 200X
9.	Secure MDT Approval of ERR	LPA	Oct 200X
10.	Complete Preliminary Design and submit to PM for local review and comment	AE	Oct 200X

B. IMPLEMENTATION

1.	Submit Reimbursement Request to MDT	LPA	Nov 200X
2.	Authorize Final Design	PM	Nov 200X
3.	Complete Final Plans	AE	Dec 200X
4.	Submit Bid Documents to PM	AE	Dec 200X
5.	Secure Wage Determination	AE	Dec 200X
6.	Transmit locally approved Bid Documents to MDT for review	LPA	Jan 200X
7.	Authorize Advertisement For Bids	Local governing body	Feb 200X

8.	Bid Opening	AE	Mar 200X
9.	Bid tabs/award recommendation sent to Local governing body for approval contingent on MDT concurrence.	Local governing body	Mar 200X
10.	Request Concurrence from MDT	LPA	Apr 200X
C. CONSTRUCTION			
1.	Submit Compliance Documents	Contractor	Apr 200X
2.	Pre-construction Conference	AE, PM	Apr 200X
3.	Start Construction	PE, Contractor	May 200X
4.	Labor Standards Monitoring	AE, PM	Ongoing
5.	Submit Reimbursement Requests and Progress Reports	AE, PM Clerk-Treasurer	Ongoing
6.	Final Inspection	A/E, PM, MDT Liaison	Aug 200X
7.	Final Payment to Contractor	Local governing body	Aug 200X
10.	Final Payment to Engineer	Local governing body	Aug 200X
11.	Certificate of Completion	PM	Aug 200X
D. CLOSEOUT			
1.	Project Closeout Begins	LPA	Sept 200X
2.	Project Completion Report	LPA	Oct 200X

**Appendix 5.186 Conflict of Interest requirements for this Local Agency
Federal-aid Program**

**MONTANA STATE LAW GOVERNING RULES OF CONDUCT FOR PUBLIC OFFICIALS AND
EMPLOYEES AND CONFLICT OF INTEREST STATUTES**

2-2-104. Rules of conduct for public officers, legislators, and public employees.

- (1) Proof of commission of any act enumerated in this section is proof that the actor has breached the actor's public duty. A public officer, legislator, or public employee may not:
 - (a) disclose or use confidential information acquired in the course of official duties in order to further substantially the individuals personal economic interests; or
 - (b) accept a gift of substantial value or a substantial economic benefit tantamount to a gift:
 - (i) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties; or
 - (ii) that the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken.
- (2) An economic benefit tantamount to a gift includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of the services. Campaign contributions reported as required by statute are not gifts or economic benefits tantamount to gifts.

2-2-125. Rules of conduct for local government officers and employees.

- (1) Proof of commission of any act enumerated in this section is proof that the actor has breached a public duty subjecting the actor to disciplinary action by the employing entity.
- (2) An officer or employee of local government may not:
 - (a) engage in a substantial financial transaction for the officer's or employee's private business purposes with a person whom the officer or employee inspects or supervises in the course of official duties; or
 - (b) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.
- (3) Notwithstanding the provisions of subsection (2), a member of the governing body of a local government may perform an official act when the member's participation is necessary to obtain a quorum or otherwise enable the body to act. The member shall disclose the interest creating the appearance of impropriety.

2-2-201. Public officers, employees, and former employees not to have interest in contracts -- local government waiver.

- (1) Members of the legislature; state, county, city, town, or township officers; or any deputy or employee of an enumerated governmental entity may not be interested in any contract made by them in their official capacity or by any body, agency, or board of which they are members or employees. A former employee may not, within 6 months

following the termination of employment, contract or be employed by an employer who contracts with the state or any of its subdivisions involving matters with which the former employee was directly involved during employment. In this section the term:

- (a) "be interested in" does not include holding a minority interest in a corporation;
- (b) "contract" does not include:
 - (i) contracts awarded to the lowest responsible bidder or proposer based on competitive bidding procedures;
 - (ii) merchandise sold to the highest bidder at public auctions;
 - (iii) investments or deposits in financial institutions that are in the business of loaning or receiving money;
 - (iv) a contract with an interested party if, because of geographic restrictions, a local government could not otherwise reasonably afford itself of the subject of the contract. It is presumed that a local government could not otherwise reasonably afford itself of the subject of a contract if the additional cost to the local government is greater than 10% of a contract with an interested party or if the contract is for services that must be performed within a limited time period and no other contractor can provide those services within that time period.
- (c) "former employee" does not include a person whose employment with the state was involuntarily terminated due to a reduction in force or other involuntary termination not involving violation of the provisions of this chapter.

(2) The governing body of a city, town, or county may waive the application of the prohibition contained in subsection (1) for a present or former city, town, or county officer or employee who in an official capacity does not influence the decision making process or supervise a function regarding the contract in question. A governing body may grant a waiver under this subsection only after publicly disclosing the nature of the conflict at an advertised public hearing held for that purpose. In determining whether to grant a waiver, the governing body shall consider the following factors, where applicable:

- a. whether the waiver would provide to a program or project a significant benefit or an essential skill or expertise that would otherwise not be available;
- b. whether an opportunity was provided for open competitive bidding or negotiation;
- c. whether the person affected is a member of a clearly identified group of persons that is the intended beneficiary of the program or project involved in the contract; and
- d. whether the hardship imposed on the affected person or the governmental entity by prohibiting the conflict will outweigh the public interest served by avoiding the conflict.

7-3-4367. Control of conflict of interest.

- (1) Commissioners and other officers and employees shall not be interested in the profits or emoluments of any contract, job, work, or service for the municipality and shall not hold any partisan political office or employment. Any commissioner who shall cease to possess any of the qualifications herein required shall forthwith forfeit his office, and any such contract in which any member is or may be interested may be declared void by the commission.
- (2) No commissioner or other officer or employee of said city or town shall accept any frank, free ticket, pass, or service, directly or indirectly, from any person, firm, or corporation upon terms more favorable than are granted to the public generally. Any

violation of the provisions of this section shall be a misdemeanor and shall also be sufficient cause for the summary removal or discharge of the offender. Such provisions for free service shall not apply to policemen or firefighters in uniform or wearing their official badges where the same is provided by ordinance or to any commissioner or to the city manager or to the city attorney upon official business, or to any other employee or official of said city on official business who exhibits written authority signed by the city manager.

7-5-2106. Control of conflict of interest.

No member of the board must be directly or indirectly interested:

- (1) in any property purchased for the use of the county;
- (2) in any purchase or sale of property belonging to the county; or
- (3) in any contract made by the board or other person on behalf of the county for the erection of public buildings, the opening or improvement of roads, the building of bridges, or the purchasing of supplies or for any other purpose.

7-5-4109. Control of conflict of interest.

- (1) The mayor, any member of the council, any city or town officer, or any relative or employee of an enumerated officer may not be directly or indirectly interested in the profits of any contract entered into by the council while the officer is or was in office.
- (2) The governing body of a city or town may waive the application of the prohibition contained in subsection (1) for a city or town officer or employee, or to the relative of an officer or employee, if in an official capacity the officer or employee does not influence the decision making process or supervise a function regarding the contract in question. A governing body may grant a waiver under this subsection only after publicly disclosing the nature of the conflict at an advertised public hearing held for that purpose. In determining whether to grant a waiver, the governing body shall consider the following factors, where applicable:
 - (a) whether the waiver would provide to a program or project a significant benefit or an essential skill or expertise that would otherwise not be available;
 - (b) whether an opportunity was provided for open competitive bidding or negotiation;
 - (c) whether the person affected is a member of a clearly identified group of persons that is the intended beneficiary of the program or project involved in the contract; and
 - (d) whether the hardship imposed on the affected person or the governmental entity by prohibiting the conflict will outweigh the public interest served by avoiding the conflict.